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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re Dion H., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

Dion H.,

Defendant and Appellant.

B224496

(Los Angeles County
Super. Ct. No. TJ18393)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Catherine J. Pratt, Judge. Affirmed.

Bruce G. Finebaum, under appointment by the Court of Appeal, for Defendant and
Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Chung L. Mar and
Viet H. Nguyen, Deputy Attorneys General, for Plaintiff and Respondent.

Appellant Dion H. was convicted of second degree robbery and assault by means likely to produce great bodily injury. He contends that there was insufficient evidence to support the robbery conviction. We reject appellant's argument and affirm the judgment of the trial court.

FACTS

On March 14, 2010, at about noon, Joshua Edmond and Patika Hands were walking to church together. Before they arrived at church, they stopped at a store so that Edmond could get something to eat.

Appellant was standing outside the store with three other young men. Someone in appellant's party asked Edmond, "Where you from?" Edmond responded by stating, "Are you serious?" Dion then approached Edmond and said, "He asked you where you from." Edmond responded by stating: "I don't bang." Edmond then walked into the store.

While Edmond was in the store, Hands briefly spoke with appellant. She knew appellant because she previously went to the same school and lived near him. Hands and appellant were "friends." Regarding Edmond, Hands told appellant, "Leave him alone. He don't bang."

When Edmond emerged from the store, appellant stated to him, "Let me holler at you for a minute." Appellant then punched Edmond in the face. Edmond's vision became blurry, and he lost his balance, falling to the ground. Appellant then kicked Edmond while he was down. A group of other young men quickly surrounded Edmond and repeatedly kicked him in the face and other parts of his body. Appellant suffered a split gum and loose tooth.

At one point during the incident, appellant tore a gold chain off of Edmond's neck. According to Edmond, appellant did so before Edmond was kicked and while appellant was the only person next to him. According to Hands, after appellant and the other young men walked away from Edmond, appellant came back and took Edmond's chain, and then ran off.

On March 24, 2010, the People filed a petition under section 602 of the Welfare and Institutions Code. In the petition the People charged appellant with (1) second degree robbery in violation of Penal Code section 211 and (2) assault by means likely to produce great bodily injury in violation of Penal Code section 245, subdivision (a)(1).

On April 22, 2010, after a bench trial, the trial court sustained the petition and found the allegations in both counts of the petition to be true. Appellant was sentenced to serve six years four months in a camp-community placement program. This appeal followed.

DISCUSSION

Appellant's sole argument on appeal is that there was insufficient evidence to support his conviction of robbery. Robbery is "the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (Pen. Code, § 211.) " '[T]he word "felonious," used in connection with the taking of property, means a taking with intent to steal.' " (*Rodriguez v. Superior Court* (1984) 159 Cal.App.3d 821, 825.) "To support a robbery conviction, the evidence must show that the requisite intent to steal arose either before or during the commission of the act of force. [Citation.] '[I]f the intent arose only after the use of force against the victim, the taking will at most constitute a theft.' " (*People v. Marshall* (1997) 15 Cal.4th 1, 34.) Appellant contends that while there may have been sufficient evidence supporting a finding that he took Edmond's gold chain with intent to steal, there was insufficient evidence supporting a finding that he formed such intent before or during the acts of force committed against Edmond.

"In considering a claim of insufficiency of evidence, a reviewing court must determine 'whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (*People v. Earp* (1999) 20 Cal.4th 826, 887.) Where, as here, the findings of the trier of fact "rest to some degree upon circumstantial evidence, we must decide whether the circumstances reasonably justify those findings, 'but our opinion that the circumstances also might reasonably be reconciled with a contrary

finding’ does not render the evidence insubstantial.” (*Id.* at pp. 887-888.) “We do not reweigh the evidence or revisit credibility issues, but rather presume in support of the judgment the existence of every fact that could reasonably be deduced from the evidence.” (*People v. Alvarez* (2009) 178 Cal.App.4th 999, 1004.)

Applying these principles to this case, we hold that there was substantial evidence that appellant’s intent to steal Edmond’s gold chain arose before or during the acts of force committed against Edmond. Under Edmond’s version of the incident, appellant stole the gold chain after appellant punched Edmond but *before* Edmond was kicked by appellant and his colleagues. This version of the incident clearly supports the inference that appellant formed the requisite intent to be convicted of robbery. Because we must review the evidence in a light most favorable to the judgment, we must accept Edmond’s version of the incident.

Even assuming Hands’s version of the incident were true, there would be substantial evidence supporting the robbery conviction. As stated, Hands testified that appellant stole Edmond’s gold chain immediately after appellant and his colleagues repeatedly kicked Edmond while Edmond lay helplessly on the ground. Prior to the assault, Hands advised appellant, her friend, that Edmond was not a member of a rival gang. Edmond, too, told appellant that he was not a gang member. Although Edmond did not in any way threaten appellant, Edmond was wearing his gold chain outside of his shirt. Under these circumstances, a reasonable trier of fact could conclude that appellant’s assault on Edmond was motivated, at least in part, by theft, and that appellant’s intent to steal Edmond’s gold chain arose prior to or during appellant’s use of force against Edmond.

DISPOSITION

The judgment is affirmed.

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KITCHING, J.

We concur:

KLEIN, P. J.

ALDRICH, J.